

REMARKS

Claims 1, 2 and 4-9 are pending in the present application. Claims 1, 2 and 4-9 have been rejected. Claim 1 has been amended. The Amendments herein presented are made for the purposes of better defining the invention, rather than to overcome the rejections for patentability. No presumption should therefore attach that the claims have been narrowed over those earlier presented, or that subject matter or equivalents thereof to which the Applicants are entitled has been surrendered. Reconsideration and allowance is respectfully requested in view of the following remarks.

Examiner's Interview

Applicant thanks the Examiner and the Primary Examiner, Jerry Redman, for the interview conducted on October 19, 2006. The proposed amendments to Claim 1, faxed to the Examiner, were discussed as well as the Miller reference (U.S. Patent No. D318,742). The Examiner would not allow the claims as amended, stating that the proposed amendments would require a new search. In the Examiner's Interview Summary, the Examiner states that "[i]t appears that the proposed after-final amendment would overcome Miller '742. However further search and consideration would be required."

The 35 U.S.C. §102(b) Rejection

Claims 1, 2 and 4-9 have been rejected under 35 U.S.C. § 102(b), as being anticipated by Miller (U.S. Patent No. D318,742). Applicant respectfully disagrees with the Examiner's contentions.

The Miller reference does not disclose all of the elements of the claims. To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988). Moreover, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984).

The Miller reference discloses an ornamental design for a supporting channel for ceiling mounted track lighting systems. The Miller reference is a design patent that discloses only figures illustrating the ornamental design. The Miller reference does not disclose each element

of the device, nor a description of how the device is used. The Miller reference is merely an ornamental design of a supporting channel for ceiling mounted track lighting systems.

The Miller reference does not disclose that the ornamental design is a siding trim element as is claimed in the present application. Claim 1 recites a siding trim element that can be utilized for wall coverings. Amended Claim 1 recites “A siding trim element comprising: a traversing element with at least two projecting elements projecting outwardly therefrom, said traversing element and said at least two projecting elements forming at least two recesses configured to receive and retain one or more siding panel elements...” The Miller reference is silent with respect to a traversing element with at least two projecting elements that form two recesses configured to receive and retain one or more siding panel elements. There is no teaching or disclosure in the Miller reference discussing the use of the ornamental design for the supporting channel for ceiling mounted track lighting, nor describing the function of the parts. The Miller reference does not disclose any ability to receive and retain one or more siding panel elements. Nor does the Miller reference disclose siding panel elements. Therefore, the Miller reference does not disclose each and every element of the present application.

Additionally, amended Claim 1 recites “...each of said at least two projecting elements comprising a flange formed integral an end of each of said at least two projecting elements, wherein a portion of each said flange is substantially perpendicular to said traversing element and another portion of said flange is substantially parallel with said traversing element...” By referring to Figure 2, the Examiner applies elements of Claim 1 to the item disclosed in the Miller reference without the appropriate disclosure within the Miller reference to support the Examiner’s rejection. The Miller reference does not disclose the elements of Claim 1.

In analyzing the Examiner’s argument, the Applicant will reference the Examiner’s reference numbers listed on Examiner’s Figure 2. The Examiner contends that flanges 5 and 6 each have a portion that is substantially perpendicular to traversing element 1 and another portion that is substantially parallel to the traversing element 1. The Examiner contends that the protruding portion of flange 5 is parallel to 1, while the portion directly connecting 5 to 2 is perpendicular to 1. (Final Office Action, mailed September 1, 2006, page 2) In the Examiner’s figure, the portion connecting 5 to 2 is not illustrated as being perpendicular to 1. Element 5 is not defined

as ending or beginning in any specific place within the Miller reference. The Examiner is making a broad assumption as to the labeling of the elements of the Miller reference. It is agreed that the flange 5 appears to be parallel to 1 since it is raised upward from 2, however, flange 5 is not illustrated or disclosed as being perpendicular to 1, even at the portion connecting 5 to 2.

The specification discloses in referring to FIG. 1, that “Outer element 11 preferably has at least one arm 11a and at least one flange 11b” (Specification, page 6, lines 20-21) and “L-shaped element 12 preferably has at least one first arm 12a connected to traversing element 10, at least on second arm 12b connected to first arm 12a, and at least one flange 12c” (Specification, page 7, lines 1-3). Clearly, the specification teaches that the two projecting elements have separate parts (i.e., one arm 11a, flange 11b, first arm 12a, second arm 12b, and flange 12c) to clearly define the positioning of the flanges. One skilled in the art would look to the specification to understand that the flange is integral with the projecting element and has a portion that is substantially perpendicular to the traversing element and another portion is substantially parallel with the traversing element. The flanges 5 and 6 of the Examiner’s Figure 2 do not disclose as is claimed; neither does the Miller reference disclose the claimed invention.

Further, the Miller reference does not disclose as claimed in amended Claim 1 “wherein said at least two recesses bias against said one or more panel elements to soundly retain said one or more siding panel elements therein.” The Miller reference does not disclose that the at least two recesses bias against the one or more siding panel elements to retain them. There is no teaching, disclosure or reference in the Miller reference discussing the use of the supporting channel for ceiling mounted track lighting. The Miller reference does not disclose that any siding panel elements can be retained by the Miller invention. Again, the Miller reference does not disclose each and every element of the present application.

Since the Miller reference does not disclose each and every element of Claim 1, Claim 1 is not anticipated by the Miller reference. Therefore, Claims 2 and 4-9 are also not anticipated by the Miller reference.

Reconsideration and withdrawal of this rejection is respectfully requested.

Further remarks regarding the asserted relationship between Applicant's claims and the prior art are deemed not necessary, in view of the foregoing discussion. Applicant's silence as to any of the Examiner's comments is not indicative of acquiescence to the stated grounds of rejection.

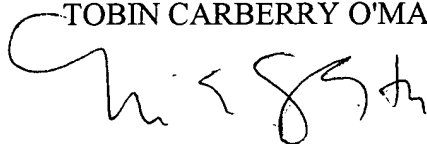
Request for Allowance

It is believed that this Amendment places the above-identified patent application into condition for allowance. Accordingly, entry of this Amendment is appropriate and is respectfully requested.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated above.

Respectfully submitted,

TOBIN CARBERRY O'MALLEY RILEY SELINGER, P.C.



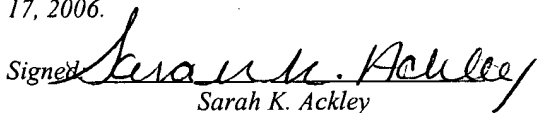
Dated: November 17, 2006 Nicole E. Coppes-Gathy
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Signed


Sarah K. Ackley